REMARKS

In this Response, the specification and claims 1-6, 9-17, 19-29, 31-37, 39 and 40 are amended. The specification has been amended to correct a typographical error. Please cancel claims 8, 18, 30 and 38, without prejudice. Accordingly, claims 1-7, 9-17, 19-29, 31-37, 39 and 40 are pending in the present application. Applicants respectfully request reconsideration of the application in view of the above amendments and remarks made herein.

I.   Rejections Under 35 U.S.C. § 101

Claims 22-31 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter, for the reasons set forth on page 2 of the Office Action. In this Response, claim 30 has been canceled.

Amended claims 22 -29 and 31 are believed to be directed to statutory subject matter, as the claims are directed to a "computer-based system ..." which defines structural and functional interrelationships between software and hardware components that permit the system's recited functionality to be realized.

For instance, claim 22 defines structural and functional interrelationships between an application partition module and hardware components which permit the system's functionality of partitioning a functional description of an application into a plurality of modules based on parameterized criteria, and thus is statutory (see MPEP § 2106). Claims 23-29 and 31 depend from claim 22. The dependent claims are believed to be directed to statutory subject matter for at least the reasons given for claim 22.

Withdrawal of the rejections under 35 U.S.C. § 101 is respectfully requested.

II.   Rejections Under 35 U.S.C. § 102

Claims 1-40 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,544,066 issued to *Rostoker et al.* (hereinafter "*Rostoker*"), for the reasons set forth on pages 2-5 of the Office Action.

With regard to claims 1 and 12, Applicants respectfully submit that *Rostoker* does not teach "receiving a functional description of the software application; and automatically partitioning the functional description of the software application into a plurality of modules based on parameterized criteria".

Rostoker relates to the <u>design of electronic circuits</u>. *Rostoker* (col. 8, lines 28-32) discloses: "'behavioral synthesis' will bridge the gap between a behavioral description and a RTL [register-transfer level] description to produce a valid gate-level net list automatically from a high-level behavioral description." *Rostoker* (col. 9, lines 1-6) discloses: "partitioning the design at a high level (behavioral description) into architectural blocks creates a 'vehicle' for providing such structural information at the behavioral description level, thereby adding the ability to estimate lower-level physical parameters." *Rostoker* (col. 8, lines 35-39) discloses: "The distinction between a behavioral description and a RTL description is primarily in the amount of structure that they specify and in the 'allocation' or definition of structural components that will be used in the resulting gate-level implementations."

That is, *Rostoker* discloses that partitioning an electronic circuit design at a high level into architectural blocks provides structural information at the behavioral description level, thereby adding the ability to estimate lower-level physical parameters that will be used in the resulting gate-level implementations.

Applicants respectfully submit that *partitioning an electronic circuit design* at a high level into architectural blocks, as taught by *Rostoker*, is not analogous to "<u>partitioning the functional description of the software application</u> into a plurality of modules based on parameterized criteria", as claimed in claims 1 and 12, much less, generating software application code. For example, a circuit design is simply data and is clearly not software application code.

Therefore, for at least the above reasons, *Rostoker* does not anticipate claims 1 and 12. Applicants respectfully submit that inasmuch as claims 2-7 and 9-11 are dependent on claim 1, and claims 13-17 and 19-21 are dependent on claim 12, and claims 1 and 12 are patentable over *Rostoker*, claims 2-7, 9-11, 13-17 and 19-21 are

patentable as dependent on patentable independent claims. Withdrawal of the instant rejections is respectfully requested.

With regard to claim 22, Applicants respectfully submit that *Rostoker* does not teach "to automatically partition a functional description of the software application into a plurality of modules based on parameterized criteria", much less, a code generator that automatically generates software application code for each module. Analogous arguments to those made above in connection with the rejections of claims 1 and 12 apply.

Therefore, for at least the above reasons, *Rostoker* does not anticipate claim 22. Applicants respectfully submit that inasmuch as claims 23-29 and 31 are dependent on claim 22, and claim 22 is patentable over *Rostoker*, claims 23-29 and 31 are patentable as dependent on a patentable independent claim. Withdrawal of the instant rejections is respectfully requested.

With regard to claim 32, Applicants respectfully submit that *Rostoker* does not teach "receiving a functional description of the network software application; and automatically partitioning the functional description of the network software application into a plurality of modules based on parameterized criteria of network latency", much less automatically generating network software application code for each module. Analogous arguments to those made above in connection with the rejections of claims 1 and 12 apply.

Therefore, for at least the above reasons, *Rostoker* does not anticipate claim 32. Applicants respectfully submit that inasmuch as claims 33-37, 39 and 40 are dependent on claim 32, and claim 32 is patentable over *Rostoker*, 33-37, 39 and 40 are patentable as dependent on a patentable independent claim.
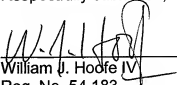
Withdrawal of the rejections under 35 U.S.C. § 102(b) is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance. Issuance of a Notice of Allowance is respectfully requested.

Respectfully submitted,

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